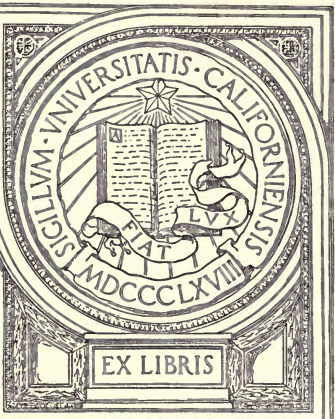
DS
473.5
B79e

B ATION OF THE EXPEDIENCY OF

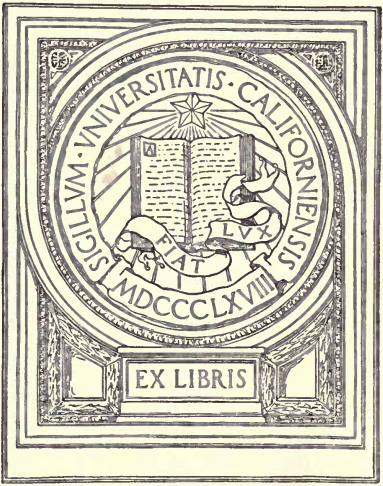
HE PRESENT IMPEACHMENT

UC SOUTHERN REGIONAL LIBRARY FACILITY
A 000 000 116 4

UNIVERSITY OF CALIFORNIA
AT LOS ANGELES



UNIVERSITY OF CALIFORNIA
AT LOS ANGELES



AN EXAMINATION

OF THE

EXPEDIENCY

OF CONTINUING THE PRESENT

IMPEACHMENT;

BY

RALPH BROOME, Esq.

AUTHOR OF THE ELUCIDATION OF THE ARTICLES OF IMPEACHMENT

AGAINST

WARREN HASTINGS, Esq.

LONDON:

Printed for JOHN STOCKDALE, opposite Burlington House, Piccadilly.

M.DCC.XCI.

[Price Two Shillings and Six-pence.]

UNIV. OF CALIFORNIA
AT LOS ANGELES
LIBRARY

PRECEDENTS ON IMPEACHMENTS.

This Day is Published.

IN ONE VOLUME OCTAVO,

Price Five Shillings in Boards,

AN

ELUCIDATION

OF THE ARTICLES OF

IMPEACHMENT,

Preferred by the laſt PARLIAMENT againſt

WARREN HASTINGS, Esq.

BY

RALPH BROOME, Esq.

Captain in the Service of the EAST INDIA COMPANY on the Bengal Eſtabliſhment, and Perſian Tranſlator to the Army on the Frontier ſtation, during Part of the late War in India.

N. B. At the latter End of this WORK is Contained a View of all the Precedents relative to the Continuance and Abatement of Impeachments on the Diſſolution of Parliament, with an Examination of the Arguments pro and con.

LONDON

Printed for JOHN STOCKDALE, Piccadilly.

COMPLETE EDITION

OF

SIMKIN's LETTERS,

CONTAINING A PARTICULAR ACCOUNT OF

Mr. HASTINGS's TRIAL

From its commencement in 1778, to the preſent Time.

This Day is Publiſhed,

Beautifully printed on a Superfine Wire wove PAPER, in One Volume Octavo, Price 7s. in Boards,

THE

LETTERS

OF

SIMKIN THE SECOND,

POETIC RECORDER OF ALL THE

PROCEEDINGS

UPON THE TRIAL OF

WARREN HASTINGS, Esq.

IN WESTMINSTER HALL.

I—— curre per Alpes,
Ut PUERIS *placeas et* DECLAMATIO *fias!*

JUVENAL.

Enlightʒn'd Stateſman! go through Toil and Strife,
And for thy Country's Good, embroil thy Life.
Go—*mighty Warrior!*—wide and wider roam,
To come at length, and be abus'd at home. ANON.

London: Printed for JOHN STOCKDALE.

January 8th, 1791.

N. B. The Second Part of the above Work may be had ſeparate to complete the firſt Edition in One ſmall Volume 8vo. Price 3s. in Boards.

H5
473.5
B79e

AN

EXAMINATION,

&c.

LIBRARY SETS
OCT 10 1940

I HAVE upon former occaſions addreſſed the public upon the ſubject of the preſent Impeachment. What I have written has been collected by Mr. Stockdale, and ſold in the ſhape of a pamphlet. The collection has been reviewed by the monthly and literary reviewers; the former paid me the compliment of ſaying, that I had rendered that intelligible, which had, till then, baffled the powers of comprehenſion; and the latter ſaid, that the arguments I had made uſe

Jenkins

354804

of were weighty, and deſerving of conſide-ration.

Thus encouraged, I venture to lay be-fore the public ſome reflections upon the preſent ſtate of the impeachment above men-tioned. It was, till very lately, my decided opinion founded upon ſearch of precedents, that the proceedings would abate or be an-nihilated by the diſſolution of the laſt Par-liament. In that opinion I find myſelf, as far as reſpects the Houſe of Commons, totally miſtaken; but I have this conſolation, that I have erred in company with the moſt re-ſpectable law authorities in this kingdom. Much ingenuity has been made uſe of to eſtabliſh the validity of the precedent in 1678, and to deſtroy the effect of all thoſe that followed. This much, however, ſtands uncontradicted and uncontroverted by any one. Except the inſtances that occurred between the years 1678 and 1685, the whole Hiſtory of England cannot furniſh a

pre-

precedent of an impeachment begun by one Parliament and purſued by another. The caſes of Lords Peterborough and Saliſbury and the Duke of Leeds, are repreſented as particular caſes, and having no analogy to the preſent; but for my own part I cannot diſcover any other diſſimilarity than that of rank. The caſes above mentioned have nobility, members of the upper Houſe, for the accuſed, and the preſent caſe has a leſs dignified ſubject, a Commoner only. Whether it be among the privileges of the Peerage that the diſſolution of Parliament ſhall extinguiſh the impeachment of a Peer, I know not, but it certainly was not put upon that footing. The judgement of the Lords in the caſes of Lord Danby, Peterborough, and Saliſbury, in the years 1685 and in 1690, was declared to have for its foundation, the laws of the land and the uſage of Parliament, without even an inſinuation of excluſive peculiarity in favour of their own body. There are, I admit, many pe-

culiarities in the caſe of Mr. Haſtings, which diſtinguiſh it from all ſtate trials in this country, or in any other. Among theſe peculiarities may be reckoned the length of time ſince the facts happened, the duration of the trial, and the ſeverity with which it has been conducted. Were we to eſtimate the degrees of guilt by the length of the ſpeeches made againſt him, by the harſhneſs of the epithets with which they are loaded, by the number of days employed totally in the arts of aggravation, and by the duration of the impeachment, we could not fail to conſider him as the worſt of mankind; as one who had ruined his country, nay, as the common enemy of human nature. If any man writes or ſpeaks in his favour, he is called an hireling or a partaker of the plunder, or he is ſtigmatized with ſome other appellation equally opprobrious. Some of thoſe who, being called by the Managers, gave teſtimony in Mr. Haſtings's favour, were either directly or indirectly accuſed of

per-

perjury, and I believe every witneſs without exception, who happened to ſpeak in his favour, was repreſented to the world as a very ſuſpicious character. On the contrary, thoſe witneſſes whoſe teſtimony tended to criminate, were extolled as men of unqueſtionable veracity, of the pureſt honour, and moſt inflexible morality.

When Mr. Paterſon's report concerning the inſurrection at Rungpore, and the crueltie committed by Deby Sing, was dilated on in Weſtminſter Hall, he was repreſented as a young gentleman of more than apoſtolic credit and veracity. But ſince the ſame young gentleman, hearing of the unfair uſe which had been made of that report, and of its being perverted to the purpoſes of calumny, has written home declaring his abhorrence thereof, and that Mr. Haſtings, ſo far from promoting or protecting guilt, was the moſt forward for detecting and avenging it, we hear nothing more of his extraordi-

nary

nary qualities and uncommon attachment to the cauſe of truth and juſtice.

I have looked into the hiſtory of our own country, where I found many examples of violent and eager proſecutions for ſtate crimes; ſome of them have been ſpeedily brought to an iſſue, fatal to the objects of accuſation; but there is not one inſtance to be found, wherein time has not operated to the abatement of public anger and proſecution. Lord Bolingbroke was attainted for high treaſon, and afterwards pardoned. Lord Oxford was put upon his trial for a ſimilar offence; he was accuſed of having baſely betrayed the intereſt of his country, and having aſſiſted her enemies. Crimes, greater than theſe, if true, could not be committed by a miniſter or ſtateſman, yet we find that the proſecution and puniſhment of this offender was not thought of conſequence equal to the preſervation of formal etiquette. The Commons of that day, ſoon-

er

er than ſuffer the judges of the higheſt court of judicature in this kingdom, to exerciſe that right and privilege which muſt neceſſarily belong to every court of juſtice, viz. that of ſettling the form of proceeding, abandoned the proſecution altogether. Many other inſtances may be adduced of thoſe who have done the moſt effectual and moſt permanent injuries to their country, and yet have owed their ſafety to the diſſolution of Parliament, or to the lapſe of time. But none of thoſe things which operated to the preſervation of thoſe who injured their country, are permitted to operate in the favour of him who has moſt effectually ſerved her. Time, inſtead of cooling, inflames reſentment, and the ghoſt of the Parliament that is dead, riſes up to re-kindle and animate the vengeance of that which is living. Precedents are laid aſide, analogy is diſregarded, and eſtabliſhed legal opinions are contradicted. One day we are told, that the proſecution of the Houſe of Commons

is the profecution of the people of England, and the next day we hear that every repreſentative is totally independent of his conſtituents. If the people petition to the rulers of their own creation, their petitions are rejected; but if the name of the people is made uſe of for form's ſake only, they are indiſſolubly bound and inextricably implicated in the acts of their uncontrolable repreſentatives. According to the doctrine of this day, the reſolutions of a paſt Houſe of Commons are binding upon the preſent, and the dying requeſt of a diſſolved body ought to be regarded by their ſucceſſors with all the reverence and veneration of a pious ſon, to the admonitions of a departed father. Poſterity in reading the hiſtory of the preſent times will naturally inquire into the cauſe of theſe extraordinary doctrines and events. They will ſay, what crime had the man committed, or what acts of uncommon atrocity had he been guilty of, that the old cuſtoms and uſage of Parliament

were to be ſet aſide for the ſpecial purpoſe of puniſhing his offences? And all this in a country where ſuch ſtrict regard is paid to form and ceremony, that many of the moſt guilty wretches are ſuffered to avail themſelves of ſome trifling technical error, and thereby eſcape with their lives and fortunes from the hands of juſtice. Upon inquiry, they will find nothing but what unavoidably aroſe from circumſtances and ſituation; that ſuppoſing the acts were intrinſically wrong, they were done, not with a view to ſerve himſelf or his dependents, but for the indiſpenſably neceſſary ſervice of that very nation which now proſecutes him; a nation, that, if there were any thing wrong in the conduct of Mr. Haſtings, participate, nay, appropriate the guilt to themſelves, by keeping poſſeſſion of what he is ſaid to have taken unjuſtly from the natives of India. But I think I have demonſtrated in the work which I alluded to, in the firſt page, to the ſatisfaction of

every candid reader, that the taxing of Cheyt Sing in the time of war, and the adviſing of the Nabob to confiſcate the treaſure of which his mother unjuſtly and unnaturally deprived him, and afterwards turned againſt him, were perfectly agreeable to the laws and cuſtoms of Indoſtan, and as reconcilable to the principles of ſound policy and ſtrict juſtice, as taxation is in England, and as the decrees concerning property are in the beſt regulated courts of equity. This may appear very bold after what has been ſaid ſo often to the contrary, by a gentleman once in full poſſeſſion of the public confidence. That day, however, is now gone by, and the people reaſoning by analogy, ſay, that he who can artfully miſrepreſent the affairs of our neareſt neighbours, may be juſtly ſuſpected of miſſtating things that happened very remote both in time and place. The gentleman I allude to, in the brilliance of his ſpeeches, and the rhetorical exuberance of his writings, is almoſt without an equal;

but

but in plain reaſoning, in the cloſe inveſtigation of facts, in the accurate weighing and balancing of merit and demerit, in making fair deductions and candid ſtatements, he is miſerably deficient. There is nothing which mankind ought to guard againſt more than what is called Oratory. It is to the underſtanding, what optical glaſſes are to the eye. The uſe of the former, like that of the latter, is to magnify or diminiſh the apparent ſize of objects.

The facts I have juſt mentioned make up the principal ſum of criminality yet brought forward againſt Mr. Haſtings; for as to the ſuſpicion of his having intended to apply the money he received for the Company, to his own uſe, I never can be perſuaded that it was of importance enough to excite a parliamentary proſecution.

Here I wiſh the reader to pauſe for a few moments; and if he be converſant with

the hiſtory of the world in general, or with that of his own country in particular, to aſk himſelf this queſtion: Can there be an example found in the whole courſe of my reading of a man ſo ſeverely puniſhed for acts of ſuch doubtful criminality? Has Mr. Haſtings injured his country? Has he betrayed her intereſt? Has he by miſmanagement loſt her provinces? His greateſt enemies acquit him of all theſe things. What is it, then, that they do lay to his charge? Why, they ſay, that in his zeal to defend the country committed to his care, he taxed a zemindar, who his accuſers think ought not to have been taxed without ſome higher authority; that he adviſed the Nabob of Oude to take from his unnatural mother certain ſums of money, his paternal inheritance, of which ſhe had defrauded him. Theſe are the acts which are held up to this country, now reaping the moſt ſolid and ſubſtantial benefits from them, as crimes of the blackeſt dye and of inexpi-

able

able guilt. Perhaps ſome people who read this, will ſuſpect me of having taken the ſame liberty in extenuating, as Mr. Haſtings's accuſers have done in aggravating his guilt. But this is not the caſe. In the Elucidation before alluded to, I gave all the arguments of his accuſers their full weight; I abridged them of nothing but their harſh epithets. And here I hope I ſhall be pardoned, if I hazard a ſuſpicion of my own, namely, that the length of the ſpeeches, the profuſion of epithets, the eccentric deviations from the ſubject, and the rhetorical dreſs of the accuſations, were artfully intended to inflame the paſſions, and bewilder the underſtandings of the hearers. My reaſon for thinking that confuſion was ſtudied more than elucidation, is this: I ſcarcely ever converſed with any one man, who, though he had conſtantly attended the trial, underſtood the principal points which were at iſſue between the accuſers and accuſed. The only things which ſeemed to impreſs

upon

upon the minds of the audience, were the ſtrong terms of abuſe, ſuch as Captain General of Iniquity, Tyrant, Oppreſſor, Murderer, and ſo forth. Every one ſaid, that Mr. Haſtings muſt have done ſomething very bad, or ſuch epithets would not have been uſed.

The audience, who formed theſe haſty concluſions, did not recollect that the ſame voices which exclaimed againſt Mr. Haſtings, have in the very ſame manner, and in almoſt the very ſame words, exclaimed as loud againſt the Miniſters of this Country. Venality, Corruption, Ruin, and Impeachment, have been echoed and re-echoed in the chapel of St. Stephen, without producing any effect upon the people without doors. It may be aſked, why did the ſpeeches of the ſame men produce ſo much more effect againſt the miniſter of India, than againſt a miniſter of England? The reaſon is plain and obvious. In the latter

caſe, the ſcene of action was near and open to the eye of every obſerver; the knowledge and experience of every individual gave the lye to factious declamation, and fictitious grievances. But in the former caſe, the ſcene of action was too remote, both in time and place, for the people to exerciſe their own judgment. They were obliged to ſee with the eyes of other men, and take the accuſations upon the credit of the accuſers: the voice of denial was borne down by the charge of participancy of guilt; ocular demonſtration could not be had in one caſe, as in the other; add to this, there is a natural propenſity in the human mind to the believing of marvellous narrations, which concern a remote period, or a diſtant country, and to the doubting of facts which happened lately, or very near us. Why this propenſity exiſts in defiance of reaſon and common ſenſe, I know not; but every one who examines the conduct of mankind in all ages, muſt ſubſcribe to the truth

truth of the obſervation. To raiſe a ſtrong preſumption of guilt againſt Mr. Haſtings, his fortune was repreſented as enormouſly large. The firſt idea that ſprings up in the mind of every one upon hearing of large and rapid acquiſitions, is, that the means were unjuſtifiable. And we readily give a man, credit for the will, as ſoon as we are aſſured that he was poſſeſt of the power. For this reaſon alone, the defence of a man accuſed of peculation becomes extremely difficult. The object of accuſation has to combat the natural prejudice of the mind. Experience ſhows us, that by much the greater part of mankind are not proof againſt temptation, and unleſs any individual has eſtabliſhed the moſt unequivocal character for ſelf-denial, we are apt to ſuſpect, that he did not let ſlip any opportunity of improving his own circumſtances. Some people, who are zealous ſupporters of the dignity of human nature, may deny what I have now remarked; but if it be not true,

I cannot

I cannot account for the ready credit which is generally given to accuſation, and denied to the aſſertions of innocence. I do not ſay, that this preference is univerſal in all caſes, but I think the rule holds without an exception, when the accuſation concerns thoſe things to which men are naturally impelled by the force of paſſions. Such, for example, are intrigues by young men for the poſſeſſion of women; and by men of a more advanced age for the poſſeſſion of wealth and power. I ſhall not enter into a diſcuſſion of Mr. Haſtings's fortune, nor of the means by which he acquired it. I ſhall content myſelf with ſaying, that one of his former colleagues in office, and who muſt be beſt able to judge of the means, expreſſes his wonder, not at the magnitude, but at the ſmallneſs of Mr. Haſtings's fortune, alledging, that his ſalary, properly managed, muſt have accumulated a much larger ſum than he is ſuppoſed to be poſſeſſed of.

We read lately in the public papers, of an officer of high rank in his Majeſty's ſervice, who had commanded armies in the fields of Indoſtan, who was perſonally unacquainted with Mr. Haſtings, delivering his ſentiments of that gentleman; he ſaid, that the enemies of the Company in India bore the moſt honourable teſtimony to Mr. Haſtings's ability, as a governor and a politician; that the people whom he was accuſed of having oppreſt, were extravagant in their praiſe of his juſtice and moderation; that the country was more or leſs proſperous and flouriſhing, in proportion to the greater or leſs extent of Mr. Haſtings's influence; that Bengal, which was immediately under his eye, was of all other provinces the moſt happy and productive. But how, as we are told by the ſame papers, was this evidence treated? *It was called an Arabian Night's Entertainment.* In the ſame manner, the petitions of that very people, whoſe ſufferings are held up to the world as the ground

ground of this impeachment, have been treated by the ſame authority. The natives, inſtead of praying for juſtice againſt Mr. Haſtings, ſupplicate juſtice and mercy for him. They deny having ſuffered under the government of Mr. Haſtings; but how were their teſtimonials and petitions anſwered? The late chief Manager told the Court, that theſe teſtimonials ſhould be among the firſt evidence he would call to ſupport his own allegations, and in proof of Mr. Haſtings's oppreſſion. The preſumption of innocence was ſuſpended by the curioſity which was excited in every one's mind, by the boldneſs of the promiſed extraordinary concluſions; but the evidence of the teſtimonials was never called for, and they were, or ſeem to be, wholly forgotten. I muſt not omit one particular part of the ſpeech which accompanied this promiſe, and which was, if poſſible, ſtill bolder than the promiſe itſelf.

The Court was desired to " consider those " who signed the testimonials as people who " are forced to mix their praises with their " groans, forced to sign with their hands " that had been in torture while yet warm " with thumbscrews upon them, forced to " sign his praises, and that, it was hoped, " would give their Lordships a full and satis- " factory proof of the miseries of these poor " people." I think I may safely affirm, that in all the annals of oratory, both ancient and modern, there never appeared a bolder figure, or a more extravagant hyperbole. Could the author of such words think so meanly of his judges, as to flatter himself that such assertions, which carried, not improbability, but absolute impossibility on the face of them, could impose upon their weakness and credulity? No, he knew better; but he hoped that it would keep alive the public clamour which was dying away with respect to Mr. Hastings, and beginning to rise up against himself.

He

He knew that Mr. Haſtings had not the ſmalleſt influence or controul over the natives of India; and that the very circumſtance of the teſtimonials having been tranſmitted home publicly by Lord Cornwallis, was an undeniable proof of their authenticity. Had there been a ſuſpicion of their having been obtained by compulſion, influence, or ſolicitation, it would have been an eaſy matter to have inquired into the facts. There has been abundant time for doing as two years have elapſed ſince they arrived in England. No attempt has been made to controvert their authenticity; and why? Becauſe no man, not even the chief manager himſelf, ever ſeriouſly doubted it. Upon this ſubject I have but one thing more to remark, which is, that there never exiſted an inſtance previous to this, of proſecuting a man for an injury, the perpetration of which was denied by thoſe who alone had the means of knowing, and

affirmed by thoſe only who had not the means of knowing.

But the quotations I have already made, are but a ſmall part of the contradictions which have ariſen in the courſe of this impeachment. We find that the laſt Houſe of Commons voted two reſolutions perfectly in oppoſition to each other, with reſpect to the ſtate of the province of Bengal. To criminate Mr. Haſtings, and to make him appear as an oppreſſive tyrant, Bengal was voted to be depopulated and ruined; to eſtabliſh the credit of the Eaſt India Company, the ſame country was voted to be rich, flouriſhing, and productive. The laſt Houſe of Commons was frequently reminded of theſe irreconcilable reſolutions. Every member ſaw and felt it, but not one attempted to deny or juſtify the fact: it was too plain for denial, and it was too groſs for juſtification; the reproach was heard with conſcious ſilence and affectation of contempt.

tempt. It was ſtated among other things in a newſpaper, and the paragraph was conſtrued into a libel upon the Houſe of Commons. The author, whom the *mens conſcia recti* had induced to affix his name to it, was puniſhed; but upon what grounds? Not for publiſhing an untruth, but for violating the privilege of Parliament. Other offences of a ſimilar nature, attended with more aggravating circumſtances, had been committed by other men, and were paſſed over without puniſhment, and almoſt without notice. The member who had been thus treated, announced his intention of bringing forward a motion with reſpect to the contradictory reſolutions above mentioned. A day was appointed, but before that day came, every engine was ſet to work to prevent its coming forward, or to render it abortive. He was prevailed upon to abandon the motion, for which he has been juſtly condemned both by his friends and enemies. The previous queſtion might have

have been moved to prevent the diſcuſſion, but the very ſhrinking from examination would have eſtabliſhed the fact: but the fact cannot ſtand in need of any eſtabliſhment, for any man by turning to the charges voted againſt Mr. Haſtings, and to the reſolutions of the Houſe of Commons upon the opening of the India budget, may convince himſelf of the truth of what has been aſſerted. The price of India ſtock roſe two per cent. upon the credit given to the laſt reſolution, but I cannot ſay that it fell upon the credit of the former. The ill conſequence of abandoning the motion above mentioned is now felt, for we have heard this parliamentary cenſure made uſe of to prove that no ſuch contradictions exiſted.

A country gentleman is ſaid to have urged theſe apparent contradictions in the votes of the laſt Houſe of Commons concerning India, as the ground of his changing

ging his ſentiments in regard to the merit of the impeachment. But how were theſe arguments treated? He was told that they had been *ſcouted* as often as they had been uſed by a gentleman who was ultimately puniſhed for the publication of them. The word *ſcouting* brings to my recollection a commanding officer in India, who always made it a rule in controverſy, to *ſcout* the argument he could not anſwer. This I take to be the caſe of the gentleman in queſtion, who has courage enough to *ſcout*, but not to deny the truth of the arguments urged againſt him. Is it reaſonable to ſuppoſe, that had the facts been untrue or miſſtated, not one perſon would think it worth his while to deny them? There is no man whoſe mode of reaſoning I ſuſpect ſo much, as that of the late chief Manager of the impeachment; and the grounds of my ſuſpicion ſo peculiarly attached to him, are, that I ſcarcely ever read three pages of his writing, or heard him ſpeak for ten minutes

at a time, without diſcovering ſome fallacy or other. The vaſt flow of words which he is maſter of, and the thick rich dreſſes which the wardrobe of his imagination can furniſh at a moment's warning, enable him to conceal the greateſt deformities, and to give falſehood and abſurdity the appearance of truth and reaſon. I read his late pamphlet with the moſt jealous eye, and though my judgement was ſometimes dazzled with the ſplendour of his diction on the firſt reading, I diſcovered a plentiful crop of falſe premiſes and unjuſt concluſions upon the ſecond.

Having ſaid thus much concerning the nature of the impeachment, as it ſtood in the laſt Parliament, chiefly for the ſake of thoſe who, not having read what I formerly wrote on that ſubject, may happen to peruſe this, I ſhall now make ſome obſervations on the preſent ſtage of this ſlow and artfully embarraſſed proſecution.

A queſ-

A queſtion will ſoon be agitated, whether the proceedings ſhall be renewed or diſcontinued. The arguments in favour of renovation or continuance are principally theſe:

1. It muſt be for the advantage of Mr. Haſtings that the trial ſhould proceed, becauſe, without an acquittal, his character will deſcend to poſterity, not in ſuch fair colours as it ought to do, if he be innocent.

2. That the preſent Houſe of Commons is in honour, if not in law, bound by the reſolutions of the laſt.

3. That to ſuffer crimes of notoriety and enormity to eſcape without puniſhment, would lower the dignity of the Britiſh Parliament in the eyes of all Europe; and in the opinions of the native princes and inhabitants of Indoſtan, it would amount to a denial or failure of juſtice.

4. That Mr. Haſtings's eſcape by the diſſolution of Parliament would prove an encouragement to future offenders to ſpin out their trials by procraſtination and delay, ſo as to extend them beyond the life of one Parliament.

5. That to diſcontinue the proceedings on account of paſt delays, and the probability of future, would be to reflect on the conduct of the late Managers.

6. That ſtrict juſtice ought to be done, let the difficulties be ever ſo many or ſo great, and let the conſequences be what they may: *Fiat juſtitia, ruat cœlum.*

Theſe are the principal reaſons I have yet heard urged in favour of renovating or continuing the proſecution. I ſhall now examine them one by one in the order in which I have ſet them down.

In regard to the firſt, I readily agree that it would be for the intereſt of Mr. Haſtings that the trial ſhould go on; but there are certain proviſos requiſite, without which it muſt be an irreparable injury. Theſe proviſos are, I fear, unattainable. The firſt requiſite is, that there ſhould be a moral certainty, or, at leaſt, a very ſtrong probability of the trial's ending in the ſpace of one Seſſion of Parliament. This is, in its own nature, unattainable. It would derogate from the dignity of both Houſes, to enter into a compromiſe with a priſoner at the bar. It is alſo incompatible with the very nature of ſupreme Courts of criminal juſtice, to fix limitations to the number of charges, and to ſet bounds to their own authority. The only poſſible method of ſhortening the duration of Impeachments, without infringing on the rights of one Houſe or the other, would be, by an exerciſe of the royal prerogative, to keep the Parliament ſitting, without any prorogation, till the

trial ſhould be ended. But Mr. Haſtings is not of conſequence enough to expect ſuch an exertion in his favour. He has no right to hope that all public buſineſs ſhould be ſuſpended, and his caſe to be the only ſubject of Parliamentary attention. The Lords have hitherto avoided ſitting in Weſtminſter Hall during the ſevereſt part of the winter, for their health's ſake; and in the ſpring, which is the only ſeaſon that has been devoted to this trial, they have not leiſure to ſit more than two or three days at fartheſt, in a week. The experience of three years proves that twenty-three days, on an average, are the moſt that can be given to Weſtminſter Hall in one ſeſſion; for in three years the Lords have ſat juſt ſixty-nine days. Arguing from what has been to what muſt be, we may fairly conclude, that more than the number above mentioned cannot be allotted to this trial for the three years to come. In eſtimating the probable duration of the trial, I ſhall not follow

low the example of a gentleman, who made it appear that upon the preſent ſyſtem, it could not end in leſs than forty years.*

But I will take what I have heard for granted, namely, that the late Managers, if re-elected, would abandon all the remaining articles, except one, namely, that of contracts. We all ſaw that the laſt charge, viz. that of preſents, occupied the ſpace of two Seſſions of Parliament in the proſecution only. Now the charge of contracts is in its own nature capable of much more amplification than that of preſents. The latter divided itſelf into only two heads, that of avowed, and that

* This gentleman's calculation was founded upon falſe premiſes. The true way of calculating the trial's duration by analogy, is this: the firſt two charges were got through by the proſecutors in one ſeſſion; the next article has taken up two years, and we may reaſonably allow the ſame time for the next, which will make up four years for the ſecond pair of articles. Here we diſcover the ratio of increaſing retar-

that of concealed preſents; but the former will reſolve itſelf into four heads, there being that number of contracts to be inquired into. There will conſequently be a much wider field open for evidence and declama-

retardation, or which is the ſame thing, the decreaſe of velocity. But we find the ratio to be in geometrical progreſſion, that is, every pair of articles requires four times as many years to be got through, as their immediate predeceſſors did; this being ſettled and the rule eſtabliſhed, the calculation ſtands thus: There are twenty, or ten pair of articles in the whole.

1ſt	Pair of Articles,	1	Year.
2d	Ditto —	— 4	Ditto.
3d	Ditto —	— 16	Ditto.
4th	Ditto —	— 64	Ditto.
5th	Ditto —	— 256	Ditto.
6th	Ditto —	— 1024	Ditto.
7th	Ditto —	— 4096	Ditto.
8th	Ditto —	16384	Ditto.
9th	Ditto —	65536	Ditto.
10th	Ditto —	262144	Ditto.
	Total	349525	Years for the proſecution only.

This may appear laughable, but I inſiſt upon its being the faireſt calculation yet made, if we are to reaſon by analogy.

tion,

tion, as muſt be evident to every one who conſiders that it will be neceſſary to examine the price of the articles contracted for, by way of aſcertaining the profits of the contracts. It will lead alſo to an inquiry into the characters and reſponſibility of the ſucceſsful and diſappointed candidates, in order to ſhow why a preference was, or ſhould have been given to the propoſals of this man or the other. It will be neceſſary alſo to trace the hiſtory of former contracts, and to ſhow the cuſtoms and uſage of government in like caſes, and to compare the whole with the orders from the direction at home. A thouſand other difficulties will occur which I have not time to point out, nor the ability to foreſee. Every one who has heard or read the ſpeeches of the late chief Manager, and ſome of his aſſociates, knows, that either of them can ſpeak four or five days upon the moſt trifling ſubject. We are all certain of their powers, and what reaſon have they ever given us to ſuſpect their inclinations? Two years would not finiſh the pro-

ſecution upon this one article of contracts, even if the future Managers ſhould be more œconomical of their oratory than their predeceſſors. After this muſt come the defence of four charges, which, on the defendant's ſide, may take three or four years more, and this defence muſt be followed by a replication, which will require a year or two more at leaſt. Theſe eſtimates taken together, amount to a greater length of time than Mr. Haſtings can afford to ſpend, from a life already ſo far advanced, under the torture of hopeleſs perſecution.

Another proviſo is alſo requiſite to make it a deſirable thing for Mr. Haſtings that the trial ſhould proceed; viz. that the accuſers and accuſed ſhould be nearer upon a footing at the bar of the Houſe of Lords, than the Commons ſeem willing to admit. It is in vain for a Lord Chancellor or a High Steward, to tell the priſoner to be of good cheer, and not to ſuffer depreſſion from the weight of his accuſers, if the defendants and proſecutors

cutors are not intitled to the ſame indulgences from the Court. The very doctrine of *Lex et Conſuetudo Parliamenti* is ſufficient to diſcourage any priſoner from placing much confidence in his own defence. For what is this *Lex et Conſuetudo Parliamenti** but a right claimed by the Commons to ſettle their own privileges, not in a fixed and invariable code made for general purpoſes, but according as occaſions may ariſe? The judges would not take upon them to declare what were the privileges of Parliament, but left each Houſe to ſettle their own. But even this power of fixing their own privileges would not be ſo dangerous to the ſubject, if they were ſo ſettled and reduced to

* The definition of this law and cuſtom, accord-to Vaughan, who was a ſtrong advocate for it in the the caſe of Lord Clarendon, is, *Lex ab omnibus quærenda, à multis ignorata et à paucis cognita.* If for *paucis* we read *nemine*, the definition is admirable. But I apprehend that *paucis* ſignifies the leaders of the prevailing party in the Houſe of Comnons, and if ſo, the true meaning of *Lex et Conſuetudo Parliamenti* is, the privilege of making privileges.

writing as to enable any man to ſay, Thus far Parliament may go and no farther. Unleſs the object of accuſation could diſcover the *ne plus ultra* of the power of his accuſers, the conteſt with ſuch a body is like fencing without a foil, or fighting without a ſword with an experienced gladiator. I believe there is no inſtance of an acquittal upon a Parliamentary impeachment, and if there is, I cannot call it to mind at this moment. There are many inſtances of impeachments inconſiderately undertaken and diſcontinued upon various pretexts, and ſome caſes where impeachments have ended in bills of attainder. But if a priſoner were acquitted, the Commons may impeach again. Should any Houſe of Commons ever conſider it as derogatory to their dignity to be defeated by an individual, they may renew and perſevere in their proſecutions till they have cruſhed him to atoms. Let the reader reflect for a moment on the inequality of the conteſt between the Houſe of Commons and an Individual. Twenty Managers of ſelect

abi-

abilities, aided by a number of common and civil lawyers, oppoſed to a priſoner and three counſel. The former inveſted with powers to call for what papers they pleaſe, to ſend for and examine what witneſſes they think proper, and to make uſe of the public purſe for defraying the expences of the proſecution. The priſoner has none of theſe advantages. I could enumerate many more on the ſide of the proſecutors; but they are ſo obvious to every one that reflects, that it were a loſs of time to do it. It has been aſked, what are Mr. Haſtings's wiſhes on this ſubject, and why do not his friends come forward upon the occaſion? In my opinion, it matters very little what he wiſhes or deſires. The votes of the Houſe of Commons ought not to be influenced by conſiderations of this nature. Thoſe members who think him guilty of ſuch crimes as deſerve everlaſting puniſhment, who think him deſerving, not only what he has ſuffered, but all that ingenuity can make him ſuffer, will and ought to vote for the

354804 reno-

renovation or continuance of the proſecution. But thoſe who think him guilty of no crime, or that his paſt ſufferings have more than expiated his offences, together with thoſe who think it incompatible with the genius and ſpirit of the Britiſh laws, that a man ſhould be upon trial for his whole life, will, doubtleſs, vote againſt it. I do not know what Mr. Haſtings's wiſhes are upon this queſtion; I have heard him ſay, that no man ſhould know his ſentiments, a reſolution wiſely adopted, and which he ſhould have adopted four years ago. After the Commons had loaded their Journals with criminal allegations againſt him, he by his friends expreſſed a wiſh to be impeached, in order that he might have an opportunity of anſwering the accuſation. Little did he think at that time, that ſo far from obtaining the object of his wiſhes, he was ſupplicating his own miſery and deſtruction. Let him, however, benefit from experience, and take care how he becomes acceſſary to his own injuries.

With regard to the retrieval of character by acquittal, I can only ſay that *vitæ ſumma brevis, ſpem nos vetat inchoare longam.* The proſpect is too diſtant for the moſt ſanguine hope, even if it were reſolved to let him enter immediately on his defence. It would then be a work of three years, at the very loweſt computation.

I know that ſome people will ſay, that I have over-rated the time, but I muſt again appeal to experience as the foundation of probability. Let us recollect, that the late Managers ſpent twenty days in making fine ſpeeches, and eleven days in debating upon the admiſſibility of evidence. The ſubjects for dilatation will be more in number, and more ample in ſubſtance than thoſe that have already occurred. So much time has elapſed ſince the ſpeeches were made, that the impreſſions are nearly effaced, and will conſequently require to be made anew. There will be all the characters of the defendants witneſſes to be cut up, and their teſtimony

mony to be invalidated and explained away. The ſpeeches of Mr. Haſtings's counſel, which will doubtleſs be very long, muſt be anſwered. A variety of circumſtances will ariſe to occaſion delay; circumſtances which cannot be foreſeen or prevented. As many or more, if the Managers are ſo inclined, may be deſignedly created. At the rate of twenty-three days for one ſeſſion, all theſe things cannot be accompliſhed in leſs than three or four years. I am not conſcious of having uſed any exaggeration, and I do defy any perſon to impeach the probability of my predictions or the juſtice of my concluſions. It may be ſaid, for I have heard it ſaid, that the Houſe of Commons will take care that no ſuch delays ſhall happen in future. But great and powerful as that Houſe is, they are not equal to the taſk. When the late chief Manager and his colleagues are re-appointed, what power upon earth can put the bridle upon their tongues, or limit the length of their ſpeeches? There muſt be in the conducting of ſtate trials ſo much

much left to the Managers, that they may protract and procraſtinate juſt as much as they pleaſe. There is no remedy but that of changing them, and that would amount to an annihilation of the proceedings, or at leaſt to a diſcontinuance of the ſuit. The obſervations which the late chief Manager made upon the reproof given him by the then Houſe of Commons for charging Mr. Haſtings with the death of Nundcomar, are freſh in the memories of all who heard him.

Under theſe circumſtances, Mr. Haſtings cannot wiſh (at leaſt I ſhould think ſo) for a renovation of the proceedings. In regard to his character, he muſt leave it to the candour of poſterity, who having no perſonal reſentment againſt him, no danger to apprehend from his acquittal, may be inclined to think (what moſt diſintereſted people do at preſent) that the written teſtimonials of the natives over whom he preſided, with reſpect to his moderation and juſtice, and the evidence

and admiſſion of his enemies with reſpect to his ſervices, are a full refutation of oratorical abuſe, and illiberal, ſtudied invective. The character of his chief accuſer, high as it may ſtand for great talents and literary accompliſhments, will weigh not very heavy in the ſcale of popular opinion, when oppoſed to the plain affirmation of knowledge and integrity. It will be remembered, that he who contradicted the teſtimonials of thouſands in favour of that governor general, whom they venerated and adored, had effrontery enough to contradict the oral teſtimony of millions groaning under the oppreſſion of an arbitrary government. It will be remembered, that he who raiſed his voice to the utmoſt pitch for the liberty of America, employed his proſtituted pen for the enſlaving of another kingdom. Biographers will publiſh the hiſtory and anecdotes of his life; and in comparing his orations and writings with each other, they will be ſtruck with the glaring contradictions

tions and abſurdities of his various tenets and opinions. Poſterity will ſee in his character little to commend, much to admire, but infinitely more to lament and reprobate. From the aſperſions of ſuch men there is little to apprehend on account of future reputation. It is, however, a ſerious evil to have ſuch a maſs of criminating matter, wherein there is little intelligible, except the terms of abuſe, left ſtanding againſt an accuſed perſon on the Journals of the Lords, without an anſwer or attempt at refutation. But great as this evil may be, it is ſtill a greater to be fixed to the bar for life, without a gleam of hope, or the moſt diſtant proſpect of concluſion.

The next reaſon for continuance is, that the preſent Houſe of Commons is in honour, though not in law, bound by the reſolutions of the laſt.

It may be eaſy enough to make a pathetic ſpeech upon this ſubject, and to repreſent a diſſolving Houſe of Commons in the character of a dying father conjuring and admoniſhing his heirs to go on with a law ſuit which he himſelf had undertaken for ſome capricious reaſon or other. I am, however, much inclined to think, that as ſoon as the litigious father was interred, moſt people would adviſe the heir to examine well the grounds of litigation, and unleſs there were more weighty reaſons for continuing than abandoning the proſecution, to let it drop immediately upon the father's death. I think no rational being would carry his ideas of filial obedience to the requeſt of a dying father, ſo far as to violate the firſt precepts and injunctions of Chriſtianity. But a compariſon of this kind is no ways applicable to the caſe of a diſſolved and a ſucceeding parliament. If the latter were bound in the ſmalleſt degree by the votes of the former, it would prevent the repeal of detrimental

ſtatutes,

ſtatutes, and the amendment of every error whatever. The laws of Great Britain would become like the laws of the Medes and Perſians, fixed and unalterable. The doctrine is ſo abſurd, that I would as ſoon ſet about a ſerious demonſtration of the exiſtence of light and darkneſs, as undertake a refutation of ſo palpable an abſurdity. I ſhould ſuppoſe, that the gentleman I have often alluded to, in his wildeſt and moſt eccentric flights, would not maintain ſo abſurd a propoſition, as that a ſucceeding Parliament is bound, either by honour or law, to accede to the votes of their predeceſſors. Certainly the former ought to examine before they reject, in the ſame manner as they ſatisfy themſelves of the inexpediency of a ſtatute before they repeal it. The laſt Houſe of Commons are not entitled to an extraordinary degree of credit; for that they did vote contradictions, is clear beyond a doubt. The preſent Houſe, when the India miniſter brings forward his budget, will, probably, have

have their aſſent called for to ſimilar propoſitions. They will vote India to be in a flouriſhing ſtate in the evening, and the next morning they may go into Weſtminſter Hall to tell the lords, that Mr. Haſtings has ruined the provinces of Bengal and Bahar beyond the power of reſtoration. Many ſpecious arguments may be made uſe of to entrap unwary members into a belief, that having voted the exiſtence or dependence of an impeachment, they are bound by honour and a juſt regard to conſiſtency to go on with it. But let it be remembered, that the right and the expediency of enforcing that right, are as diſtinct as two propoſitions can poſſibly be from each other. In examining the queſtion of expediency, the Houſe will, probably, recollect that the leaders of the two parties, which then generally oppoſed each other, were divided in their opinions with reſpect to the points of criminality. Both agreed there was ſomething criminal, but what that ſomething was, they could

not

not ſettle among themſelves. It was urged as a reaſon why the abſtract queſtion of abatement or dependence of an impeachment on a diſſolution of Parliament, ſhould be diſcuſſed ſeparately and without reference to the particular caſe which gave riſe to the queſtion, that if that disjunctive mode were not adopted, it would be impoſſible for poſterity to know upon what baſis the reſolution was founded. The votes of ſome might be influenced by one conſideration, and ſome by another. Some might vote againſt farther diſcuſſion from deſpair of ever ſeeing the trial ended. Others from humanity towards the priſoner; and others, becauſe in their opinions a diſſolution of Parliament extinguiſhed an impeachment. Theſe arguments had deſervedly much weight; but it is to be lamented, that the ſame objections had not been made to that ſweeping vote, which paſſed upon the Benares article; for in that inſtance, though a majority of thirty-nine agreed that there was ſomething criminal

criminal in one allegation or another, yet, had the allegations been diſcuſſed ſeparately, there would not have been a majority in favour of criminality in any one point or allegation in the whole article. There is ſcarcely a man living whoſe conduct, even for one day, would bear ſuch a ſcrutiny as Mr. Haſtings's has undergone in this impeachment. You will ſcarcely ever find a perſon who does not diſcover ſomething wrong in every tranſaction which he analizes and examines. Suppoſe the miniſter on a late occaſion had been compelled to lay before the public the whole proceſs of the convention; has any perſon a doubt but that the ingenuity of his enemies would have diſcovered ſomething really or apparently reprehenſible in his conduct? I believe it is a maxim that admits of no diſpute, that no miniſter can hold his ſituation in this country longer than he can keep a majority to ſupport him in both Houſes; and I think it is equally clear, that no mi-

niſter would keep that majority long, if he were obliged to expoſe every tranſaction, with all its concomitant *minutiæ*, to public inveſtigation. The reaſon of this is, that let a Miniſter's conduct be as intentionally pure as the ſnow upon the mountains, it would be eaſy for thoſe who envy his ſituation, to give his actions ſuch a colour and hue, as muſt unavoidably render him unpopular, and conſequently drive him from his place. When I conſider how the enemies of Mr. Haſtings have had acceſs to all his public and much of his private correſpondence, how they have ranſacked every ſecret abyſs and corner for matter to bring againſt him, it is really a miracle that they have not been able to find ſomething better to lay hold of, than any thing they have yet urged againſt him.

The reaſons which I have already ſtated, are ſufficient of themſelves, but I could bring many more, why the preſent Houſe

of Commons, before they determine to recommence the profecution, ſhould accurately examine every article and allegation. If they haſtily adopt them as their own, the chief Manager may at a future period tell them, as he did their predeceſſors, that the impeachment was as much theirs as his. He might conſider them as anſwerable for every miſtake that had crept into the articles. And, doubtleſs, they would be ſo in fair and true conſtruction. It would be ſounded forth to the world, that the adoption of the articles by the preſent Houſe of Commons was an undeniable proof of their truth and importance. It would be uſed as an argument againſt the priſoner in one Houſe, and very poſſibly at ſome future time againſt thoſe who adopted the reſolutions in another. It is very reaſonable to expect, that thoſe who took an active part in bringing this impeachment forward, will uſe every argument, however fallacious, to prevail with the preſent Houſe to give it

their

their unqualified approbation and adoption. But ſurely it is quite the reverſe with reſpect to the new members, and to thoſe who either voted againſt it, or took no active concern in its ſucceſs; it would be not only an act of injuſtice to Mr. Haſtings to adopt the trial without examination, but a breach of that duty which every repreſentative owes to his conſtituents. The great uſe of changing our repreſentatives, is to give the people an opportunity of rejudging their deputies, and of correcting the errors of their old repreſetatives, by ſubjecting their acts to the reviſal and judgment of their new.

The third reaſon for the continuance of the impeachment is, that if crimes of ſuch notoriety and enormity are ſuffered to eſcape unpuniſhed, it would lower the dignity of the Britiſh Parliament in the eyes of all Europe; and in the opinions of the princes and natives of Indoſtan, it would amount to a denial or failure of juſtice.

With reſpect to the diminution of dignity in the eyes of all Europe, I have this to remark, that were a queſtion ſtated abſtractly, can it become the dignity of an individual, of a body corporate, or of any aſſembly of people whatever, to carry on a criminal proſecution againſt one man, for the ſame crime for ſeven years or longer? I think there could be but one anſwer given to it.

Were another queſtion ſtated in the ſame abſtract way, does it become the dignity of a Prince, of a Miniſtry, of a Parliament, or of any ruling body, to employ a ſervant in a high ſtation, neceſſarily inveſted with many diſcretionary powers for a great number of years, and after he has reſigned his office, to bring him to trial for actions which his ſuperiors had been informed of regularly, and which had received the avowed approbation of ſome of his ſuperiors, and the tacit implied approbation of all? I think there could not be two anſwers given to

this

this queſtion. How then is it poſſible that the dignity of Parliament can ſuffer by the abandoning of ſuch a proſecution. But it muſt reflect upon the wiſdom of our anceſtors in the eyes of all the world, when it is conſidered, that it is not repugnant to any written law which they have eſtabliſhed, for a man to be kept upon his trial for one and the ſame offence for his whole life. It is ſeldom that laws are enacted in any ſtate till occaſion calls for them. Our anceſtors ſaw many oppreſſions by the crown, and they guarded againſt them, but there never exiſted an inſtance before the preſent one of cruſhing a man by the bulk, not by the ſpecific weight of accuſation. For this reaſon they made no ſtatute of limitations with regard to Parliamentary impeachments, but ſurely now the evil does exiſt, it calls aloud for remedy and redreſs. Our Parliamentary anceſtors acquired infinite honour to themſelves, and conferred an ineſtimable obligation upon their grateful poſterity, by

their

their ſucceſsful ſtruggles in favour of liberty againſt the deſpotiſm and tyranny of Kings; and our cotemporary legiſlators would acquire equal honour to themſelves, and confer equal benefit upon us and our poſterity, if they would frame ſuch a ſtatute or law, as would prevent themſelves or their ſucceſſors from carrying their reſentment and vengeance beyond the bounds of reaſon and juſtice.

With reſpect to the opinions of the princes and inhabitants of India, I would adviſe thoſe who think that the honour of Parliament would ſuffer in their eyes, if Mr. Haſtings's perſecution were dropped, to recollect the teſtimonials which theſe princes and inhabitants ſent over in his favour about two years ago. I would then aſk the ſupporters of this argument, whether this nation would think it derogatory to the honour of his Majeſty, were he to grant a pardon to a priſoner under ſentence of death, in conſequence of a

petition ſigned by many thouſands of his moſt reſpectable ſubjects? But the caſe of Mr. Haſtings is much ſtronger, for the natives of India do not aſk a pardon for him for offences committed, but they ſay he has done nothing to make him ſtand in need of it. In order to enter in the opinions of other men, we muſt reduce our own knowledge down to the ſtandard of theirs, or raiſe them to the ſame level: we muſt take up their prejudices in favour of their own laws and cuſtoms: in ſhort, we muſt place ourſelves as nearly as poſſible in their ſituations. To exemplify this, let the reader ſuppoſe himſelf one of the India Princes or Zemindars who ſigned the teſtimonials; he is told, that after Mr. Haſtings had quitted his government, he is impeached for cruelty and oppreſſion committed in India. Conſcious of the falſehood of the accuſation, and knowing that Mr. Haſtings's adminiſtration, when compared with any other he had ever ſeen, was lenient in the extreme, he ſigns a teſtimonial of his good

con-

conduct and petitions in his favour. Afterwards this Indian Prince is told, that his testimonial was not attended to, that those who could know nothing of the matter, were believed in preference to those who alone could know any thing about it. Suppose farther, that this Indian Prince should hereafter be told, that this governor, whom all India loved and adored, was kept upon his trial for eight or ten years, and lastly died from anxiety and despair. What ideas must he entertain of English laws and English justice? With such a view of our boasted constitution, (and this is the only view an Indian can take of it) would he not prefer the speedy sentence of Nader Shaw, to the lingering justice of a British legislature? What must a Mahommedan Cazy or Mufti think of our doctrine of evidence, when he compares it with their own? In their courts of justice, the strongest proofs are requisite to establish criminality, but when the Cazy is told, that with us a man may be convicted

of

of oppreſſion upon the evidence of thoſe who neither ſaw nor felt, in defiance of the teſtimony of thoſe who muſt have ſeen and felt, had the oppreſſions been committed; can he fail of treating our doctrine of evidence with contempt and abhorrence? I do not ſay that ſuch is the doctrine of evidence among us, in all caſes; but with the knowledge which the Indians poſſeſs, and from the premiſes which are before them, they can make no other concluſions.

What can we reaſon from, but what we know?
Pope's Eſſay on Man.

The ſpirit of the Mahommedan laws, both eccleſiaſtical and civil, is that of lenity. Captives taken in war are always ſaved by converſion to the faith, and murder itſelf is not puniſhed with death, even in a ſlave, if the heirs will accept, and his maſter pay the ſtipulated fine.* What opinions, then, muſt the Mahommedans entertain of our laws, when thoſe who are ſup-

* Vid. Hedaga, a Mahommedan law book, tranſlated by Mr. Hamilton, and now in the preſs.

poſed to have been injured, are not only prevented from remiſſion of the injuries, but are not ſuffered to bear teſtimony in favour of the accuſed, that no ſuch injuries were done to them? Such ideas, as I have deſcribed, the natives of India now entertain of this proſecution. I have heard gentlemen who have lately returned from that country declare, that none of the Indians believe that Mr. Haſtings is really proſecuted on account of any thing he did in India: they ſay, it may ſerve as a pretext, but the real cauſe muſt be very different from the oſtenſible one. In that opinion they are not ſingular; for I have heard many people throw out ſuſpicions very unfavorable to the moral characters of ſome of his accuſers. They ſay, that the *amor juſtitiæ* never exaggerates, that the man who really loves and ſeeks juſtice, will endeavour to convince the judgment, not to inflame the paſſions; he will take care whilſt he is doing juſtice to one perſon, not to do an act of ſtill greater injuſtice to another. I think I

have

have ſufficiently ſhewn, that it will be no diminution of honour to the preſent Houſe of Commons, in the eyes of neighbouring ſtates, nor in the opinions of the princes of India, if this proſecution be diſcontinued; on the contrary, I have proved, that the long duration of this trial has brought into view an imperfection in the Conſtitution, which has, till now, remained undiſcovered.

We all underſtand the meaning of the words *honour* and *dignity*, but we are not all agreed, where to place them. In my opinion *true honour* and *dignity* conſiſt in ſolid and ſubſtantial juſtice, and as there can be no juſtice in cruſhing an individual by a long and indefinite proſecution, ſo there can be neither honour nor dignity in doing it. I know it will be ſaid, that it is diſgraceful to Parliament to be baffled by an individual in their purſuit of juſtice. The propoſition is true; but the preſent caſe does not

come within it. If the articles were injudiciouſly drawn; if they comprehended a great deal of irrelevant matter; if they included all the acts of a long adminiſtration; if they were from their unweildy and unmanageable bulk, from their want of ſhape and form, totally unfit for a court of juſtice, who are the parties to blame in this tranſaction? Surely Mr. Haſtings cannot be blamed for things in which he had no concern. The articles were drawn by a Committee, and no doubt the late chief Manager had a principal ſhare. If we portion out the particular ſhares of blame, they will be divided in this way. The gentleman juſt alluded to was very injudicious, and ſhewed vaſt want of technical ſkill in his profeſſion, in framing ſuch unweildy articles. The Committee ſhewed want of judgment or of attention in not correcting the errors of their chairman. And the late Houſe of Commons paid too high a compliment to their Committee, when they

voted

voted the articles without more examination. Theſe are errors no ways imputable to Mr. Haſtings. But that they are errors, and very grievous ones, no man will take upon him to deny. Here I would aſk the moſt zealous advocate for continuing the impeachment, whether there be either honour, dignity, juſtice, or any thing laudable in perſevering in error and miſtake. I know that every argument will be urged that ingenuity can invent, to make the preſent Houſe of Commons believe that their honour is committed; and the true cauſe of making this attempt is, that the articles cannot be abandoned without an implied reflection upon him that framed them. But the queſtions for the conſideration of every member are theſe: Shall we prefer juſtice to injuſtice? Or ſhall we ſacrifice our own honour to ſave that of another man?

The fourth reaſon for continuing the impeachment is, that if Mr. Haſtings be ſuffered

fered to eſcape by diſſolution of Parliament, it will encourage other offenders to uſe the arts of delay, and to defeat juſtice by protracting the trial beyond the life of one Parliament.

This objection to diſcontinuance has no weight, for the Commons may renovate proceſs if they think fit. Beſides, no one can impute delay to Mr. Haſtings. It has been ſaid, in anſwer to the complaints made by his friends on the ſcore of delay, that he might have defended himſelf article by article, and that it was the wiſh of the Managers that he ſhould do ſo.

A propoſal of that kind never would have been made, had not the Managers ſeen in it great advantages to themſelves. They would have had the advantage of turning the admiſſions in his defence upon the firſt article into evidence to criminate him upon the next. It may be ſaid, that actions really

inno-

innocent cannot be tortured into criminality; and that a man ought in ſtrict juſtice to be puniſhed for crimes, let them be brought to light how they may. This is undeniably true when applied to crimes that are in their own nature criminal, and perhaps it may hold good, when applied to poſitive or prohibited crimes; but by no means when applied to *ex poſt facto* criminality, ſuch as the taxing of a zemindar, who in the opinion of ſome was not taxable. But all the crimes imputed to Mr. Haſtings are of that nature. They are merely ſpeculative; ſuch for example, was his receiving money for the uſe of the Company, under an idea that the law ſanctioned it. To make the very worſt of that offence, it amounts to no more than an involuntary miſtake, which cannot be claſſed among the *mala in ſe*, nor the *mala prohibita*. When miſtakes, not only perfectly innocent, but highly beneficial to his country, are tortured into acts of inexpiable criminality, ſurely the

ac-

accuſed is juſtified in withholding from his accuſers all the information he can. Notwithſtanding theſe unfair advantages taken againſt him, Mr. Haſtings, of himſelf, would not have objected to the mode of trial propoſed by his accuſers. The objection was made by his counſel, who, in contending for the preſent mode, acted as all other profeſſional men would, that is, inſiſted upon that which the law allowed them, and they thought moſt advantageous to themſelves in conducting the defence. It was lately urged as an argument in favour of proceeding with the old articles, rather than to begin *de novo*, that it would be an injuſtice to the accuſed, for the proſecutors to avail themſelves of his defence, in the conſtructing of new charges. But the great evil which would have lighted upon Mr. Haſtings, had the mode of trial propoſed by the Managers been acceded to or decided in their favour, is this; he would from that moment have been certain of being condemned,

or

or he muſt have fought through the whole twenty articles. For had he been acquitted upon nineteen, they would have tried the twentieth. One of the Managers, who is well verſed in the doctrine of chances, and who was the propoſer, if not the contriver, of this new mode of trial, knows very well, that if the chances upon any one or every one of the articles taken ſeparately, were nineteen to one in the priſoner's favour, there would be almoſt a certainty of convicting him upon one or the other of the twenty. He knew very well, that no man either in public or private life can conduct himſelf without ſome faults, and he knew alſo that there was nothing ſo white but himſelf and his colleagues could tinge it with black.

It is impoſſible for the ingenuity of man to charge Mr. Haſtings with delay, or being the cauſe of delay.

The fifth objection I have heard to diſcontinuance, is, that to abandon the proſecution upon account of the paſt delay and probable future, would reflect upon the conduct of the late Managers.

I have ſhown already, that more reſpect is due to ſubſtantial juſtice, than to the character of any individual whatſoever, and I could make it evidently appear, if it were neceſſary, that the reſolutions of the laſt Houſe of Commons, though moved by the chief Manager himſelf, did bear very hard upon his own character. For what was the purport of them? It was to enable the Managers to lay down a load which their own indiſcretion had laid upon their own ſhoulders. It was a tacit acknowledgement that they had overloaded the articles.* To blind

* If any other man had done this, the chief manager would have compared him to the voracious glutton diſcharging the ſuperfluous crudities of an overloaded ſtomach.

the

the eyes of the public, and to cover their own errors, they talked about the avocations of the judges; but they muſt have been very ignorant indeed, if they did not know that the judges muſt devote part of their time to their other duties. When circumſtances ariſe, which no human ſagacity can foreſee or guard againſt, there is ſome excuſe for miſcarriage and failure of ſucceſs, but when all the impediments are obvious and irremovable, there can be no excuſe pleaded for undertaking what cannot be performed. The wiſdom of thoſe who drew the articles, may be compared to that of a man who begins to erect a palace, with not money enough to build a cottage. It is true, the chief Manager in his late pamphlet, ridicules reaſon and calculation; but I cannot help thinking that calculation, had he condeſcended to accept its aſſiſtance, would have been of great uſe to him in drawing the articles in this impeachment. It would have ſaved him from a diſgrace,

which it is not in the power of this Houſe of Commons to wipe away from him, whether they adopt his articles or not. His miſconduct may be of this uſe; it may prove an uſeful leſſon to future Parliaments to employ in ſerious undertakings men of judgment, inſtead of men of fancy and imagination. I hope I ſhall not incur the diſpleaſure of the preſent Houſe of Commons, when I ſay that their predeceſſors proclaimed to the world their own errors, when they determined to abandon ſixteen parts out of twenty of their accuſations; and they proclaimed their own injuſtice, when in the very act of abandoning them, they inſiſted upon their truth and importance. The chief Manager muſt have felt himſelf very uncomfortable, when he made the motion for abandonment. He expoſed himſelf to a very juſt rebuke, had any member thought fit to give it to him. He might have been thus addreſſed: "You have perſuaded us to "vote twenty articles; you aſſured us you "would

" would ſubſtantiate them all; you drew
" them yourſelf, and you had the aid of
" what counſel you thought fit to aſk for and
" to conſult. We placed our confidence in
" you and your aſſociates; you have waſted
" our time in voting the articles which you
" now want to abandon; you have put the
" priſoner to a vaſt deal of unneceſſary trou-
" ble and expence in anſwering them, and
" you now come to tell us, that we have
" voted more articles than can ever be
" tried in the life of man. The excuſe
" you make, is, that the judges muſt de-
" vote ſome of the time to the courts
" of Weſtminſter, and they muſt go their
" circuits. All this you knew before."
Had any member made theſe obſervations,
I ſee but one way of anſwering them, name-
ly, by ribaldry, a method which the gentle-
man I allude to, always uſes as a ſubſtitute
for reaſon, when reaſon will not anſwer his
purpoſe.

It has been ſaid, that the late chief Manager is as much upon his trial as Mr. Haſtings. If this means his character only, I admit it; but I do not ſee how his character is more concerned than that of every other leader of a parliamentary Impeachment. All impeachments are planned, contrived, and brought forward by a few, but they are adopted by the many. In the preſent caſe the members of both ſides of the Houſe pinned their faith on the ſleeves of their leaders, viz. the miniſterial members on the miniſter, and the oppoſition members on the chief Manager. The latter in conducting the proſecution committed his own honor and veracity more than was neceſſary. He went out of his way to do it. The ſtory of Deby Sing was not in the articles. It was not in the votes of the Commons: it was not in their inſtructions. I never yet heard the warmeſt advocate for the gentleman in queſtion, attempt to defend his conduct in this buſineſs. It has been conſidered by every

body, as contrary to the principles of juſtice to blacken the character of the accuſed, with ſudden and unexpected charges, totally foreign to the point of iſſue, even if they were true. But there was a fallacy and a deception made uſe of in the ſtatement, which can never be too often or too much expoſed. The gentleman "would not have "believed it, had it not been upon the Com-"pany's records." The idea which public cords impreſs on an Engliſh mind is, that a ſuit has been tried, and is recorded. But what was upon the Company's records? Nothing more than that Mr. Paterſon had collected a number of *ex parte* complaints from the inſurgents at Rungpore, and tranſmitted them to the Board at Calcutta, and thence they were ſent home. The truth of theſe complaints had never been inquired into, and were no more proved, than an indictment for an aſſault can be ſaid to be proved, the moment the clerk has filled up the blanks in order to preſent the bill to the grand

grand jury. The papers collected by Mr. Paterſon were no more matters of record than bills of indictment are before the grand jury has ſeen them; this the chief Manager knew very well, but he gave them the authenticity of records. The ſtory of Deby Sing is the grand point upon which the gentleman's character for veracity is ſtaked, and this never can come to a deciſion by the Lords without a new charge voted by the Commons. It is therefore evident, that to continue the trial for the ſake of knowing whether a great orator be a calumniator, is of no uſe, ſince if the object were of much greater importance, it is unattainable.

The ſixth reaſon I have heard urged for continuing the trial is, that ſubſtantial juſtice ought to be done, let the difficulties be ever ſo many or ſo great, and the conſequences what they will. *Fiat Juſtitia, ruat Cœlum*

Cælum. To this propoſition I agree: but then the preſent Houſe of Commons ought to be well aſſured that there is a *dignus Vindice nodus.* The offences ought to be of that ſerious nature, of that dangerous tendency, and alarming appearance, as may juſtify the reſentment and vindication of ſuch a powerful body as the Houſe of Commons. Great bodies move ſlow, and it is very fit they ſhould do ſo; for wherever they fall, they fall heavy. In reading the hiſtory of ſtate proſecutions, we are often ſhocked at the violence of the times, and condemn the miſtaken zeal of the accuſers. Poſterity are always the beſt judges of the merit and demerit of impeachments. When party conſiderations ceaſe to blind the eye of reaſon, nothing is received into the ſcale, but the evidence and internal criminality of facts. For this reaſon every member, if he values his future reputation, if he wiſhes to be thought hereafter the advocate of juſtice rather than the ſupporter of a party, will

from regard to himſelf, examine well the grounds upon which he aſſents to the preſent proſecution. It is abſurd in the extreme, as I have fully demonſtrated already, in the preſent Houſe of Commons to pay a compliment to the laſt at the expence of their own honour and reputation. The very reſolution to abandon four fifths of the articles was an unequivocal proof of the want of caution in the laſt Houſe; for it is impoſſible for the chief Manager, with all his ſubtlety to maintain, that they could be both *wiſely* taken up and *wiſely* laid down. He might as well attempt to bring the two poles together, as to reconcile two ſuch oppoſite concluſions. This alone, independent of the contradictory votes reſpecting Bengal, and the numerous teſtimonials in Mr. Haſtings's favour, would be ſufficient to juſtify the preſent Houſe of Commons in refuſing their haſty and unqualified aſſent to the reſolutions of the laſt. In his endeavour to gain ſome, the late chief Manager will,

doubt-

doubtleſs, endeavour to touch the feelings of many. He will exclaim againſt the inconſiſtency of thoſe who formerly voted for, and now vote againſt the impeachment. He may talk of turncoats, tergiverſation, and various other terms, according as his ſportive imagination may ſuggeſt them. But there is to be found in the laſt page of his Reflections on the Revolution in France, and in the very laſt ſentence of that page, a full juſtification of changed opinion: "*When* "*the equipoiſe of the veſſel is endangered by* "*overloading it upon one ſide, it is expedient to* "*carry the weight of reaſon to that which may* "*preſerve its equipoiſe.*" Many members who were formerly perſuaded to think Mr. Haſtings guilty, might with great propriety vote for the proſecution; but they did not intend to vote for a perſecution, and I believe every one will agree, that a three years proſecution is a perſecution, and has all the effects of it. A proſecution becomes a perſecution whenever it is carried to ſuch a

length, that if the object of accuſation is found innocent, it is not in the power of any earthly being to make him compenſation. The preſent caſe falls within that deſcription.

There is no inconſiſtency in departing from the paths of error, nor in withdrawing an abuſed confidence. Gentlemen, when called upon for their votes and opinions, muſt give them upon that information which they have before them; but if upon farther examination they find themſelves deceived, they would ſurely be blameable in the higheſt degree for ſhutting their eyes againſt the light of conviction, and perſevering in what they know to be wrong. The doctrine of conſiſtency, if conſiſtency means perſevering in opinion whether right or wrong, would lead to numberleſs evil conſequences, were it generally adopted. Many commoners, who made part of that Houſe, which voted the impeachment, are now

Peers,

Peers, and if they ſtudy conſiſtency of opinion, rather than impartial juſtice, they muſt condemn the accuſed at all events. But one would think that a charge of inconſiſtency would become no man ſo ill as that gentleman, who of all others is the moſt likely to make it. I ſay, the moſt likely, becauſe it is his intereſt to do ſo. The inconſiſtencies of his political opinions were ſufficient to fill a pamphlet many years ago, and if collected up to the preſent time, would fill a folio. Notwithſtanding this, he will be the foremoſt to brand corrected error with the marks of levity and inconſiſtence. His motives are as obvious as they are cogent. It is impoſſible for any man to vote againſt continuing the impeachment without a tacit condemnation of the chief conductor of it. He anticipates the ſentence, well knowing that it will operate againſt him in the opinion of the world, as much as an acquittal of the priſoner by the lords. It will affect him ſtill more;

for

for as it will be more honourable for Mr. Haſtings to be acquitted by his proſecutors than by his judges, ſo it will be more diſhonourable for the chief Manager to be abandoned by the Commons, than to be repulſed by the Lords. I know there are thoſe who contend that a dereliction of the trial by the Commons would not clear the character of Mr. Haſtings ſo much as an acquittal by the Lords. But the caſe is otherwiſe; ſuppoſe him acquitted of the three articles already brought forward, his enemies may ſay, there are ſeventeen more, all criminal in the eyes of the laſt Houſe of Commons, and dropt, not from conſideration of probable innocence, but of certain inconvenience in proſecuting them. His friends in anſwer can only reaſon from analogy. They may ſay, that the Managers tried him upon thoſe charges which to them appeared moſt likely to convict him. This may be anſwered again; the Commons in a former impeachment (that of

Lord

Lord Oxford) inverted the rule, and chose to try misdemeanours before treasons, and we have therefore a right to suppose in this instance, that they began with charges of the least criminality. An acquittal by the Commons would cure all this, and the innocence of the accused would rest, not upon likelihood and probability, but upon the altered opinions of his accusers.

If I am not much deceived, I have in the foregoing pages demonstrated, that none of the reasons hitherto urged for continuing the impeachment without an attentive re-examination of the articles, have any real weight in them. It cannot be a desirable thing to the prisoner, in any shape; for supposing him sure of being acquitted of the three or four articles, an acquittal of four cannot amount to an acquittal of twenty. But I have shewn, that if the trial commences again, there is not a prospect of its being ended, except by death, during the

exiſtence of this Parliament. Who can ſet bounds to the length of ſpeeches, or to the debates upon evidence? There is that kind of equality between the two Houſes, which prevents the Lords from curbing the Managers, as the King's Bench may do, when the Crown lawyers take too great liberties. It is true, I have heard it ſaid, and with much appearance of reaſon, that the Managers are at the bar of the Lords what the King's Attorney General is at the bar of the King's Bench, and intitled to no more authority and reſpect. This, however, does not agree with the claims of the Managers, who contend that they are clad with the robes of magiſtracy, not in the gown of ſolicitation. It is ſaid, alſo, that if a priſoner be acquitted, the Commons may impeach him again upon the ſame points of criminality. Now it is not uſual to try a man twice upon the ſame indictment at the ſuit of the King. With ſuch vaſt diſadvantages, it is a moſt dreadful thing

thing to enter into conteſt with ſo powerful a body.

I have ſhewn, that ſo far from its being derogatory to the honour and dignity of the Houſe of Commons, that it is a duty incumbent upon them to examine the conduct of their predeceſſors in this proſecution; that though the laſt Houſe joined iſſue with the priſoner upon the plea of *guilty* or *not guilty*, the preſent Houſe has not yet gone that length; that, to adopt the articles without due examination, would be an injuſtice to the priſoner, and a breach of duty to the people; for I think I am juſtified in ſaying, that the proſecution of Mr. Haſtings is very unpopular. The people are not inſenſible of his ſervices, nor ungrateful; for how can they doubt of his ſervices, when the acting India Miniſter has been heard to ſay, that if Mr. Haſtings would have accepted a qualified approbation, or a ſet-off of merit againſt

demerit, he would not have been impeached. The people were for a time misled by delusive oratory and declamation, but the mist of false accusation is dissipated.* They are convinced that it is the man, and not his mea-

* It is curious to observe, that the two Republics Athens and Sparta, which disagreed in most other things, agreed perfectly in this proposition; namely, that Oratory without restraint was an insufferable evil. The former made a law to curb it, and the latter exploded the orator altogether. They both considered all aggravation as a downright lie. Other States in Greece entertained the same opinion of oratory; and permitted no orator to have a share in the administration of public affairs, until his moral character had undergone an examination: and it was also lawful for any citizen to prosecute an impostor, who had found means to conceal his vices from the knowledge of the inspectors. The Spartans had a vast antipathy to long speeches; for when an orator was endeavouring to speak the whole day on various subjects, they drove him out of the city. There was another thing well worth notice in Athenian jurisprudence; The Areopagus sate only in the night, and without light; a regulation, intended to prevent the judges from being prejudiced for or against the

meaſures, that have excited the indignation of his enemies. Who can think otherwiſe, when it is recollected that the very ſyſtem of politics, which was defended the other day ſo ably in this Parliament, was as much reprobated in the laſt but one; I mean the ſcheme for uniting the Indian princes, to cruſh or reduce the power of that mercileſs tyrant, Tippoo Sultan. In Mr. Haſtings this was a crime, in Lord Cornwallis it is a vir-

the accuſed. The ſame court made it a rule to confine the pleader to a ſimple ſtatement of facts, and allowed him to make no appeal to the paſſions, in order to warp the judgment. This court of juſtice was in the eſtimation of Cicero, (than whom no man better underſtood the uſe, and abuſe of criminal judicature) ſo eſſential to the conſtitution of the republic, that he gave it as his opinion, that the univerſe might be as well conducted without the hand of Providence, as the government of Athens to exiſt without the Areopagus.

Vid. Mr. Mitford's Hiſtory of Greece, &c.; and le Voyage du jeune Anacharſis, by Monſieur Barthelemi.

tue ; the changing of the whole revenue ſyſtem in Mr. Haſtings was a crime, the purſuing of the ſame ſyſtem in Lord Cornwallis a merit. Of this nature are all the accuſations I have yet ſeen brought againſt him. The people begin to ſee, or I ſhould rather ſay, have ſeen for ſome time, that his enemies are determined to torture, whom they cannot deſtroy; that if they cannot condemn him by the ſentence, they will ruin him by the delays of the law. I never met among Mr. Haſtings's greateſt enemies without doors, one man who did not reprobate the mode in which he has been proſecuted. What uſe will it be to acquit a priſoner, when you have ruined his fortune, broke his conſtitution, and brought him to the brink of the grave ? It never can be for the honour and dignity of a Houſe of Commons to carry their vengeance againſt an individual, who has never injured them, nor his country, to ſuch a length as this has been

been carried. Take his crimes for granted, nay, admit all the aggravations of his bittereſt and moſt implacable enemies to be literally true, the puniſhment is greater than the offence; the Houſe of Commons ſhould remember, that the power with which they are intruſted by the people of England, ought no more to be abuſed, than the power intruſted to the Crown. The laws now in being have no proviſion againſt everlaſting impeachment by the Commons; but if frequent inſtances of this kind occur, the people may be neceſſitated to ſet limits to the privileges of their repreſentatives, as well as to the prerogatives of their Kings.* What avail Magna Charta and the Habeas Corpus act, if the uſe of them may be defeated by a new ſpecies of proſecution?

* It was a remark of Solon, that the moſt perfect government is that, where an injury to one man is the concern of all.

I have

I have ſhewn, alſo, in the courſe of this work, that the continuance of the impeachment muſt diminiſh the admiration which has hitherto been paid to our Conſtitution by foreign nations, and that ſo far from raiſing the dignity of the Britiſh Parliament in the eyes of Aſiatic princes, it muſt humble it in the extreme. The ſpirit of divination will buſy itſelf in diſcovering the real grounds of the proſecution. They will take a retroſpective view of Mr. Haſtings's adminiſtration, and they will ſay to themſelves, "his "proſecution cannot originate from the wars "which he conducted, for in *them* he was "ſucceſsful; it cannot originate in the re-"venue, for *that* he has improved; it cannot "originate from the fines which he levied on "apoſtacy and rebellion, for *they* were ap-"plied to the ſervice of the ſtate; it cannot "originate in the acts of government, for he "has never tranſgreſſed the laws and uſage of "the country. They will then turn their

eyes to the examples which have happened in their own times, and before their own eyes. They will recollect the instances of Jaffier Khan, and other delegated tyrants, whose extortions and oppressions filling the royal coffers, laid the foundation of their advancement, in rank and favour; and having never seen an instance of an oppressor being punished for oppression committed for the benefit of the sovereign, they will ultimately arrive at this conclusion; namely, that their late Governor General is prosecuted, not for what he did do, but for what he did not do; not for having extorted too much, but for not having extorted more. This conclusion, and the only one which they can draw from the premises before them, will naturally excite dread and horror of the British government. They will expect that future Governors, taking example from the sufferings of Mr. Hastings, will redouble their exertions to accumulate for the

the ſovereign, and to plunder the ſubject.

But the dignity of the laſt Houſe of Commons muſt ſuffer, not only in the eyes of foreigners both near and remote, but it muſt abate in the eyes of all thoſe whom curioſity has induced to inquire into the grounds of this proſecution. For though the two leading parties in the laſt Parliament agreed to proſecute, they did not agree upon the reaſon why they ſhould proſecute. They cannot agree upon the facts wherewith to charge him; for whilſt the leader of the impeachment contends that Bengal is ruined by Mr. Haſtings, the India Miniſters ſay, it is of all countries the moſt flouriſhing.*

To

* The leader of the impeachment, in introducing the firſt article to the Houſe of Commons, ſuppoſes himſelf ſpeaking to Mr. Haſtings thus: "I inquire "not into your particular conduct; I am ſatisfied "with the reſult; I want not to know if you have "made two, three, or five hundred thouſand pounds;

"keep

To conclude. I think I have fully demonſtrated, that neither the continuance nor the renovation of the proceedings can be of any public ſervice whatever. It may, for any thing I know to the contrary, ſerve to promote the politics of ſome, and to gratify the reſentment of others; but there the advantages muſt ſtop, for I do bid defiance to the warmeſt advocate for the proſecution, to point out one poſſible benefit that can reſult to this country, or to any other, from Mr.

" keep what you have got; you have made a nume-
" rous people happy; you have increaſed the com-
" merce of the country, enlarged the means of
" wealth, and improved its revenues; in ſo doing,
" you have reflected honour and glory on the Bri-
" tiſh nation." Theſe words were ſpoken hypothetically, and the inference was, that had the provinces in India been well governed, and rendered happy and flouriſhing, he would not have moved the impeachment. Now we find by the evidence which the Managers themſelves called, by the teſtimony of one of his Majeſty's officers delivered in the Houſe of Commons, and by the votes of the Houſe year after year, that what was ſtated hypothetically, is ſtrictly and literally true; ſtill the impeachment goes on. Who then will ſay, that the meaſures, and not the man, are the ground of this proſecution?

Haſtings's acquittal or condemnation. Neither can an acquittal totally reſtore the credit of the accuſed, for the late Commons have inſiſted upon the truth and importance of the articles they intended to abandon; neither can the priſoner's condemnation reſcue the chief Manager's character from the charge of calumny and falſehood; for the principal crimes he imputed to Mr. Haſtings, are not at iſſue between him and the Houſe of Commons.

The diſcontinuance cannot leſſen the dignity of this Houſe of Commons in the eyes of other nations, near or remote; neighbouring kingdoms condemn the tedious ſyſtem of proſecution, and diſtant ones have petitioned againſt it.

It cannot affect future offenders from the Eaſt, for a new and more effectual Court of Judicature is provided.

The torturing of Mr. Haſtings may be a ruinous, but cannot be an uſeful example.

It

It may deter future governors abroad, generals in the field, and admirals at ſea, from taking vigorous meaſures to ſerve their country in the moment of neceſſity. They will recollect that there may again exiſt a miniſtry capable of applauding and puniſhing one and the ſame tranſaction;* that there may exiſt a people, who, while they enjoy the bleſſings that are procured for them, can behold with a torpid indifference, the ſevereſt puniſhment inflicted upon the man to whom they ſtand indebted for their enjoyments.

* Mr. Haſtings is treated by his countrymen with more ſeverity than the Spartan youth, who being alarmed by the noiſe of an attack made by an enemy on the city as he was bathing himſelf, caught up a weapon and ran naked into the midſt of the battle. The ſingularity of his appearance made the enemy believe him to be a god, and the conſternation occaſioned by ſuch a notion, made them eaſily deſiſt from the attack; the Spartans paid the higheſt compliments to the zeal and bravery of the young man; they gave him a crown of laurel worth three-pence, and fined him more than he was worth for going into battle without a ſhield. This young man was the ſon of that Phœbides, whoſe ungrateful treatment by his country I took notice of in the Elucidation.

It cannot be of any uſe to this country to proſcribe and baniſh ſuperior virtue as it was to the Athenians. A republic, jealous for its liberty, might juſtly apprehend danger from the popularity of an individual, but in a ſettled government like this, there can be no excuſe for political ingratitude.

It is not a duty incumbent upon the preſent Houſe of Commons to follow up the reſolutions of the laſt; for if that were a received maxim, it would have been the duty of the laſt Parliament to follow up the reſolutions of their predeceſſors againſt the then and preſent Miniſter. No reaſon can be given why the hyperboles againſt Mr. Haſtings's proceeding from the ſame ejaculating lips ſhould have more weight and credit, than when they were directed againſt the Britiſh Miniſter.*

Upon

* "Let no man talk of the decaying energies of "nature; all the acts and monuments in the records "of peculation, the conſolidated corruption of ages, the

Upon a queſtion of this kind, it is hoped that every member will exerciſe his own judgment. We all know that in great national queſtions, ſuch as the impoſing of taxes, approving of conventions, and the like, the miniſter muſt be ſupported, or his adminiſtration is at end. But in a queſtion of impeachment, I do not ſee any particular intereſt that a Miniſter can have in its deciſion one way or the other, unleſs he thinks that his own ſtrength conſiſts in the weakneſs of his opponents, and that to render them weak, he muſt make them unpopular. The miniſter, however, may recollect, that what renders the oppoſition unpopular, will not gain him an augmentation of eſteem. That this proſecution has diminiſhed the popula-

" the patterns of exemplary plunder in the heroic " times of Roman iniquity, never equalled the gigan- " tic corruption of this ſingle act. Never did Nero, " in all the inſolent prodigality of deſpotiſm, deal out " to his prætorian guards a donation to be named " with the largeſs ſhowered down by our Chancellor " of the Exchequer, on the faithful band of his In- " dian Sepoys." Mr. Burke's Speech in Parliament.

rity of the gentlemen called the oppoſition, is a fact beyond all diſpute. They feel the effect too ſenſibly to deny it; even the chief Manager has been heard publicly to lament the growing diſrepute of the impeachment.

I have now only to requeſt the reader to conſider what I have written, as coming from a perſon who owes no obligation to Mr. Haſtings; who never eſpouſed his cauſe through gratitude for paſt favours, nor expectation of future; who, though he courted not his ſmiles whilſt in the plenitude of his power, and in the exerciſe of a moſt extenſive patronage, has voluntarily and without ſolicitation joined the ſtandard of his defence, in the day of his adverſity.

I here again repeat what I ſaid in the Elucidation, that I never ſhould have written ſeriouſly on the ſubject, had I not found, from every converſation I ever heard concerning the impeachment, that the facts

were

were totally obſcured in the ſmoke of invective and aggravation; but as I was careful in the work above mentioned, to ſtate no facts, but what were well authenticated, ſo I have been cautious in theſe ſheets to advance no propoſition that had not the aſſent of my heart and the ſanction of my moſt deliberative judgment.—I am not the advocate of Mr. Haſtings, but the advocate of juſtice, and had I not from frequently attending at Weſtminſter Hall, from reading a variety of documents, and from Mr. Haſtings's general character in India, ſtrengthened by my own obſervations, been fully convinced that his merit infinitely exceeded his demerit, and that the cleareſt and moſt impartial elucidation of his conduct would be the ſtrongeſt and moſt effectual defence, I never would have written one line in his vindication.

Should this pamphlet attract the notice of the late chief Manager or his aſſociates, they

they will probably ſay of the friends of Mr. Haſtings, that the nearer he approaches to his defence, the more they are alarmed for his ſafety. This, however, like moſt of their aſſertions, is without foundation.—I diſclaim the knowledge of Mr. Haſtings's wiſhes as to the continuance of the proceedings, but I never looked forward to a future event with a ſtronger confidence in the ſpirit of prediction than I do to this, namely, that if the preſent Houſe of Commons re-appoint the late chief Manager, they will find that they have granted him an *eſtate in proſecution*, determinable only with the political lives of the grantors, or with the natural deceaſe, either of the granted or of the grantee.

THE END.

UNIVERSITY OF CALIFORNIA AT LOS ANGELES
THE UNIVERSITY LIBRARY
This book is DUE on the last date stamped below

RECD LD-URL
MAR 13 1967
MAR 1 1 1967

REC'D LD-URL
JUN 6 1968

REC'D LD-URL
NOV 8 1968

NOV 14 1968

Form L-9
20m-12,'39(3336)

UNIVERSITY OF CALIFORNIA
AT
LOS ANGELES
LIBRARY

UC SOUTHERN REGIONAL LIBRARY FACILITY
A 000 000 116 4